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TECHNOLOGY CENTER 2800

In re Application of:	:	
SILVEIRA <i>et al.</i>	:	DECISION ON PETITION
Serial No.: 10/749,427	:	TO WITHDRAW HOLDING
Filed: October 31, 2003	:	OF ABANDONMENT
Attorney Docket No.: 2003-074-DSK	:	

This is a decision on the petition filed on January 23, 2006. The petition has been treated as a petition under 37 C.F.R. § 1.181, to withdraw the holding of abandonment of the above-identified application. No fee is required.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a response to the Office action mailed on June 23, 2005. A Notice of Abandonment was mailed on December 28, 2005.

Petitioner asserts that a response was timely filed by facsimile transmission on December 22, 2005. To support this assertion, petitioner has submitted 1) a copy of the response including an amendment, 2) a copy of a certificate under 37 C.F.R. § 1.8(a) showing a date of transmission on December 22, 2005, and 3) a copy of the auto-reply facsimile transmission from the USPTO confirming successful transmission of the response.

A review of the application file reveals that the original response sent via facsimile on December 22, 2005, was not associated with the file at the time of mailing the Notice of Abandonment, but has since been found and matched with the file. As such, the application should not have been held abandoned.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner of record for consideration of the response and prompt appropriate action.

Inquiries regarding this decision should be directed to Clayton E. LaBalle, Special Programs Examiner, at (571) 272-1594.

Janice A. Falcone

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